

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROJAS,

:

Petitioner, :

:

:

v.

: Civil Case No. 07-3353 (FSH)

:

: **OPINION and ORDER**

:

UNITED STATES,

: Date: December 3, 2007

:

Respondent.

:

:

HOCHBERG, District Judge

This matter having come before the Court upon Petitioner's Rojas's Motion for Leave to Amend and/or Supplement Motion to Vacate Conviction and Sentence (DKT#3) and the Court having considered the arguments on the papers pursuant to Federal Rule of Civil Procedure 78; and

it appearing that an “[a]pplication for a writ of habeas corpus . . . may be amended or supplemented as provided in the rules of procedure applicable to civil actions.” 28 U.S.C. § 2242; and

it appearing that Federal Rule of Civil Procedure 15 states that “[a] party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served or” Fed. R. Civ. P. 15; and

it appearing that no responsive pleading had yet been served when, on July 30, 2007, Petitioner filed his motion to amend or supplement his original motion; and

it appearing that Petitioner Rojas's motion was returnable on September 10, 2007 and that Respondent has failed to oppose or reply to Petitioner's motion; and

it appearing that Petitioner Rojas's motion for leave to amend his original motion contains the substance of his new arguments;

ACCORDINGLY IT IS on this 3rd day of December, 2007, thereby

ORDERED that Petitioner's motion for leave to amend his 28 U.S.C. § 2255 motion is **GRANTED**; and it is further

ORDERED that Petitioner's motion for leave to amend shall be deemed part of Petitioner's initial 28 U.S.C. § 2255 complaint and the arguments contained in Petitioner's motion for leave to amend shall be considered together with those in his initial § 2255 motion, such that Petitioner need not file an additional amended motion; and it is further

ORDERED that Respondent may, if it wishes, submit a response to the arguments in Petitioner's motion for leave to amend by **Monday, December 24th, 2007**; and it is further

ORDERED that Petitioner may, if he wishes, file a reply to Respondent's arguments¹ by **Friday, January 11, 2008**.

/s/ Faith S. Hochberg

HON. FAITH S. HOCHBERG, U.S.D.J.

¹ The Court received Petitioner Rojas's reply to Respondent's initial answer on December 3, 2007. Because Petitioner Rojas may wish to respond to any additional arguments Respondent makes before December 24, 2007, the Court will disregard this reply. Petitioner may submit a single reply responsive to all of Respondent's arguments pursuant to this order.